

Message Text

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ACTION SCA-01

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC IMMEDIATE 2493

LIMITED OFFICIAL USE SECTION 1 OF 2 MEXICO 0791

FOR SCA ADMINISTRATOR

E. O. 11652: N/A

TAGS: CASC, MX

SUBJECT: ADMINISTRATOR'S STATEMENT AT FORTHCOMING CONGRESSIONAL
HEARINGS ON AMERICAN PRISONERS IN MEXICO

REF: STATE 10674

1. EMBASSY APPRECIATES OPPORTUNITY TO COMMENT ON
ADMINISTRATOR'S PROPOSED STATEMENT BEFORE FASCELL SUBCOMMITTEE.
IT APPEARS TO US TO BE AN ARTICULATE AND WELL BALANCED
PRESENTATION THAT SHOULD BE VERY HELPFUL IN PUTTING IN PROPER
PERSPECTIVE THE PRISONER SITUATION IN MEXICO.

2. IF TIME PERMITS, DEPARTMENT MAY WISH TO CONSIDER DELETING
FROM STATEMENT(AND PERHAPS ATTACHING AS APPENDIX) THE
STATISTICS REGARDING FINDINGS (PARAS 7-14) AND CONSOLIDATING
THE COMMENTS ON THE ISSUES TO WHICH THEY RELATE WITH THE
GENERAL COMMENTS THAT APPEAR LATER IN THE STATEMENT
(PARA 25 ET. SEQ.)

3. SUGGEST THAT THE PHRASE "CORRECTIVE ACTION" BE SHORTENED
TO "ACTION" IN THE MANY PLACES THAT IT OCCURS. THE TERM
CORRECTIVE IMPLIES, IN OUR VIEW, MUCH MORE WITH RESPECT
TO THE VARIOUS ISSUES THAN WE HAVE BEEN OR CAN REALISTICALLY
EXPECT TO BE ABLE TO ACHIEVE.

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4. SUGGEST REORDERING OF TREATMENT OF ISSUES SO THAT IN PARA 7-14 THE ISSUES WOULD BE TREATED IN FOLLOWING ORDER: INNOCENCE, ABUSE AT TIME OF ARREST, ACCESS, ABUSE IN PRISON, PROLONGED TRIAL DETENTION, AND VISITATION. BELIEVE THIS WOULD MORE APPROPRIATELY REFLECT ORDER OF IMPORTANCE OF ISSUES, EXCEPT FOR INNOCENCE. (WE CONSIDER IT WOULD BE USEFUL TO DEAL WITH INNOCENCE AT OUTSET, ALTHOUGH IT IS NOT A MAJOR ISSUE.)

5. RE PARA 5, PENULTIMATE SENTENCE. PANEL NOT PREVIOUSLY IDENTIFIED. SUGGEST SOME PHRASE SUCH AS "DEPARTMENT'S REVIEW PANEL." SUBSTITUTE "EXAMINED" FOR "RESOLVED".

6. RE PARA 7, SECOND SENTENCE UNDER "ACTION TAKEN" ADD "AND OTHERS INFORMALLY". EMBASSY HAS TAKEN UP A NUMBER OF SUCH CASES WITH AG'S AND OTHER APPROPRIATE OFFICES OF GOM AS BEING A MORE EFFECTIVE CHANNEL THAN FONOFF. SUGGEST PENULTIMATE SENTENCE BE DELETED. ALTHOUGH, AT DECEMBER 17 MEETING WITH CONGEN, AG INSTRUCTED DEPUTY AG TO REITERATE INSTRUCTIONS AND INSURE COMPLIANCE, WE UNABLE YET TO ASCERTAIN WHETHER THIS DONE.

7. RE PARA 8, FOURTH SENTENCE UNDER "ACTION TAKEN". SUGGEST BEGINNING READ "SINCE FEBRUARY 1975 ALL PRISONNS IN MEXICO WHERE THERE ARE ANY AMERICAN PRISONERS HAVE BEEN VISITED...."

8. RE PARA 9, SUGGEST FINDINGS PARAGRAPH READ AS FOLLOWS. "THE REVIEW PANEL EXAMINED ALL CASES CONTAINING ALLEGATIONS OF INNOCENCE. IT IS NOTEWORTHY THAT OF THE 432 CASES REVIEWED, ONLY 27 CONTAIN ALLEGATIONS OF INNOCENCE, AND THAT IN TWO OF THESE THE PRISONERS WERE ORDERED RELEASED FREE OF ALL CHARGES." SUGGEST THE FOLLOWING BE ADDED TO THE EXISTING TEXT UNDER "ACTION TAKEN." "UNDER ACCEPTED PRINCIPLES OF INTERNATIONAL LAW, THE USG WOULD NOT BE WARRANTED IN DISPUTING A VERDICT OF INNOCENCE OR GUILT IN THE ABSENCE OF CLEAR EVIDENCE THAT IT RESULTED FROM THE DELIBERATE AND IMPROPER ACTION OF THE FOREIGN GOVERNMENT OR ITS INSTRUMENTALITIES. WE CANNOT, AT THIS TIME, SAY THAT SUCH EVIDENCE EXISTS."

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9. RE PARA 12, UNDER "ACTION TAKEN" SUGGEST INSERTION AFTER FIRST SENTENCE OF THE FOLLOWING SENTENCE "IN ALMOST ALL CASES OF ALLEGATIONS OF EXTORTION BY ATTORNEYS, THE ATTORNEY WAS NOT ON THE LIST OF THE EMBASSY OR THE CONSULATE INVOLVED BUT HAD BEEN RECOMMENDED TO THE ARRESTEE BY FELLOW PRISONERS OR OTHERS."

10. RE PARA 13, NINTH SENTENCE UNDER "ACTION TAKEN".

SUGGEST SUBSTITUTION OF "A SUBSTANTIAL" FOR "IMMEDIATELY A".
ALSO SUGGEST DELETION OF LAST SENTENCE. WE THINK IT IS HIGHLY
UNREALISTIC TO EXPECT ANY SUBSTANTIAL REFORM OF THE
"MAYOR" SYSTEM EITHER IMMEDIATELY OR IN THE NEAR FUTURE,
IN RESPONSE TO OUR INITIATIVES OR OTHERWISE. WE BELIVE
SENTENCE AS DRAFTED WOULD RAISE QUESTIONS REGARDING
INITIATIVES THAT WOULD BE DIFFICULT TO ANSWER, AND MIGHT
ENGENDER EXPECTATIONS IT WOULD BE IMPOSSIBLE TO SATISFY.

11. RE PARA 14. NUMBERS APPEAR VERY LOW. RE SECOND
SENTENCE UNDER "ACTION TAKEN", SUGGEST DELETION OF PHRASE
"IN AREAS OUTSIDE MEXICO CITY." EMBASSY HAS BEEN FOLLOWING THIS
PROCEDURE FOR SOME TIME IN VIEW OF INEFFECTIVENESS OF PROTESTS TO
FONOFF.

12. RE PARA 15. AFTER SIXTH SENTENCE, SUGGEST INSERTION
OF "OF COURSE, THIS PROCEDURE ALSO EXISTS IN MANY OTHER
COUNTRIES AS WELL."

13. RE PARA 17. SUGGEST LAST SENTENCE BE REVISED TO
READ AS FOLLOWS. "THE EMBASSY AND THE CONSULATES
CONTINUE TO PRESS FOR A LIBERALIZATION OF RULES AND
PROCEDURES APPLICABLE TO COMMISSIONED WORK AND, IN FACT,
THE AMBASSADOR DISCUSSED THIS PROBLEM AT SOME LENGTH
WITH THE DIRECTOR OF LECUMBERRI PRISON DURING A RECENT
VISIT".

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O 201930Z JAN 76 ZFF-4

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC IMMEDIATE 2494

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FOR SCA ADMINSTRATOR

14. RE PARA 19 SUGGEST ALL AFTER FIRST SENTENCE OF PARA BE REVISED TO READ AS FOLLOWS: "BUT WE MUST BEAR IN MIND THAT THERE IS A LONG HISTORY OF HARSH TREATMENT OF PRISONERS IN MEXICO AS WELL AS A TRADITION OF EXPLOITATION OF THOSE WHO CAN PAY. THESE REALITIES MAKE IT DIFFICULT, NOTWITHSTANDING THE BEST INTENTIONS ON THE PART OF HIGH OFFICIALS OF THE MEXICAN FEDERAL GOVERNMENT, TO EFFECT SUBSTANTIAL CHANGES IN THE SYSTEM, EVEN FOR THE BENEFIT OF MEXICAN PRISONERS." EVEN IF ACCURATE, REFERENCE TO "MANY HIGH OFFICIALS" IS SELECTIVE AND INVIDIOUS TO OTHER HIGH OFFICIALS.

15. RE PARA 21, LAST SENTENCE, SUGGEST FIRST PART OF SENTENCE BE REVISED TO READ. "DESPITE MEXICAN CONSTITUTIONAL PROVISIONS REGARDING THE RIGHT TO AN ATTORNEY AND BEING HELD INCOMMUNICADO, SUCH GUARANTEES..." THE GUARANTEES IN ARTICLE 20 OF MEXICAN CONSTITUTION RELATE TO THE CRIMINAL TRIAL. THEY APPEAR NOT TO RELATE TO THE PERIOD BETWEEN ARREST AND CONSIGNMENT FOR TRIAL. WE ARE SEEKING CLARIFICATION FROM GOM ON THIS POINT, BUT FOR THE PRESENT WE BELIEVE WE SHOULD NOT BE ANY MORE SPECIFIC THAN OUR SUGGESTED REVISION.

16. RE PARA 22. SUGGEST INSERTING AFTER SECOND SENTENCE OF FOLLOWING. "PRISON ADMINISTRATORS ARE SEVERELY HAMPERED LIMITED OFFICIAL USE

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BY LACK OF SUFFICIENT FUNDS TO SUPPLY MANY BASIC ITEMS, SUCH AS FOOD, IN ADEQUATE AMOUNT, VARIETY AND NUTRITIONAL QUALITY.

INDEED THE MEXICAN SYSTEM APPEARS BASED ON THE ASSUMPTION THAT PRISONERS ARE EXPECTED, IN PART, TO BE SUPPORTED BY FAMILY AND FRIENDS, EVEN WITH RESPECT TO SOME ESSENTIALS, OR THAT PRISONERS WILL HAVE TO PAY FOR THEM, AND THAT ASSUMPTION IS REFLECTED IN MANY PRISON REGULATIONS." WITH REGARD TO QUESTION OF DIET OR FOOD SUPPLEMENTS, DEPT MAY WISH TO CONSIDER SUGGESTION MADE BY ONE CONSULATE THAT SUPPLYING C-RATIONS TO AMERICAN PRISONERS BE EXPLORED.

17. RE PARA 32. WITH RESPECT TO LAST SENTENCE AND POSSIBLE WAYS OF RAISING LEVEL OF MEDICAL AND DENTAL CARE, DEPT MAY WISH TO CONSIDER MENTIONING THE POSSIBILITY OF EXPLORING WAYS (US MILITARY, USPHS, LOCAL CONTRACTS) BY WHICH USG COULD PROVIDE SUCH CARE TO AMERICANS IN PRISON ABROAD WHERE LOCAL CARE INADEQUATE.

18. RE PARA 33, LAST SENTENCE, SUGGEST SUBSTITUTION

"APPROACH" FOR "REMEDY"." WITH RESPECT TO LATTER PART OF SENTENCE, WE ASSUME DEPT PREPARED TO RESPOND WITH SPECIFIC LONG RANGE SOLUTIONS IF QUERIED ON THIS POINT. ONE SUGGESTION MADE HERE IS FOR USG IN SOME FASHION TO PROVIDE WORK THAT AMERICANS COULD PERFORM IN MEXICAN JAILS AND FOR WHICH GOM WOULD AGREE TO GIVE CREDIT AS PART OF RSHABILITATION OF PRISONER.

19. RS PARA 37, SUGGEST ADDITION FOLLOWING SENTENCE.

"I WOULD LIKE ALSO TO MENTION ON THIS POINT THAT CONGRESSMAN GILMAN, A MEMBER OF THE INTERNATIONAL RELATIONS COMMITTEE, AND MRS. GILMAN VISITED LECUMBERRI PRISON RECENTLY AND EXTENSIVELY EXPLORED WITH THE PRISONERS AND PRISON OFFICIALS, MANY OF THE ISSUE I AM DISCUSSING TODAY."

20 RE PARA 39, SUGGEST ADDITION OF FOLLOWING SENTENCE.

"I MIGHT ADD THAT TO ACCOMPLISH THIS, THE AMBASSADOR GAVE UP A POSITION ON HIS OWN STAFF."

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21. RE PARS 40, SUGGEST DELETION FINAL SENTENCE. WE BELIEVE IT IS DANGEROUSLY IMPRECISE AND IN ANY CASE REDUNDANT GIVEN EXPLANATION CONTAINED PARAS 39 AND 41.

22. RE PARA 50, AFTER SECOND SENTENCE SUGGEST INSERTION OF SENTENCE "IN A SENSE, THE SEAMEN OF YESTERDAY HAVE BECOME THE PRISONERS OF TODAY". ALSO SUGGEST INSERTION AFTER FOURTH SENTENCE OF FOLLOWING "THEY ALSO PERFORM SUCH SERVICES AS ARRANGING FOR CHRISTMAS AND THANSGIVING TURKEY DINNERS FOR THE PRISONERS, CORRESPONDENCE COURSES FOR US ACADEMIC CREDIT AND OBTAINING MATERIALS FOR WORK PROJECTS BY THE PRISONERS.
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